

THE  
Bishops Courts  
DISSOLVED:  
OR, THE  
L A W  
O F  
E N G L A N D  
TOUCHING  
Ecclesiastical Jurisdiction  
S T A T E D.

Wherein it appears that the Spiritual  
Courts want both Power and Might to execute their  
Wills upon his Majesties good Subjects at this day.

BEING  
A short and brief Account of the sever-  
al Statutes made concerning the Spiritual and Ecclesiasti-  
cal Jurisdiction.

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By E. W.

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Printed for T. Reyner, to be sold by Rich. Janeway in Queens-  
head-alley in Pater-noster-row. 1681.

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**DISSOLVED:**

**OR, THE**  
**Law of England**  
**Toucing**  
**Ecclesiastical Jurisdiction Stated.**

**T**He design of this Narrative, whatever Censure it may meet with, hath no other end than to bring truth to light, and that truth more especially which hath been so long masqued and hid under Church-mens Cowns; and which hath been most industriously concealed with great Artifice from the ignorant vulgar, as they are generally pleased to term Lay-men; though some of those Lay-men, nay, the most of them, I think, are both for Parts and Piety not in the least inferior to the best of them, though they call themselves the only Clergy-men, as if every member of Christs Church were not the Clergy or Gods heritage as well as they.

But my present business is only to meddle with the coercive power they pretend to in Courts Christian, or Spiritual Jurisdiction, which for them to claim such a power in *England* distinct from the legal power known in this Kingdom, and contrary to the supremacy of the King, in direct opposition to his Authority, as he is by Law supreme head of the Church of *England*, is a very great wonder to me, and I believe to the Ingenious Reader, if he consider the matter of fact as it lies.

In the first place, the Reader must know that all manner of Spiritual Jurisdiction used in this Nation had its original and foundation from the unholy Mother Church the See of *Rome*, and her Canon Law: and was both or rather brought into this Northern Island of *England* by *Austin* the Monk: for before his time we do not find any tract of Church-Government (that is) by way of Excommunication in Court Christian.

When he came here it was with the same specious pretence that *Rome* and her Adherents and Devotaries to this day use, that is, Idleness and Regular government of the Church of Christ: But no sooner had this Monk set foot into this Kingdome but he began to shew his cloven foot, as is evidently appeared in a very short time after, for when he found that the Christians in this Island were more holy than himself, and that they liked not his Pride and Arrogancy, he fell upon the Monks of *Bangor*, and began to Curse them with Bell, Book, and Candle, till they should submit to him and the unholy See of *Rome*. And from that time, and not before, all manner of Ecclesiastical Courts and Censures of the Church both grew and continued in this Kingdom (until the time of *Henry* the Eighth) under the Popes Authority: and how they used the people in these Courts, and how many were murdered and destroyed for Religion sake in all that time, is too great a number now to be reckoned. But his holiness they had this vast power, and held Courts Canonical (as they term them) by Authority from the See of *Rome*, even from *Austin* the Monk, to *William* the First: commonly called the Conquerour, and from thence to the time of *Henry* the Eighth, yet the Bishops and Clergy of *England* sometimes by the Statute Law of the King met with many rods in their Canon Law: for their oppressions being become very great, even so great that in those dark times and fogs of Popery the Lay-men began to discover



discover their cheats, and therefore the wings of the Clergy began sometimes to be a little clipped by the Statute Law of the Land, as you will find by several Statutes made since Henry the Third: particularly in the Statute made in Edward the First's time, which ordains, That a Clerk being indicted of Felony by solemn Inquest of lawful men in the Kings Court, in no manner shall be delivered without due Purgation.

*Vide Rot. An.  
1257. 3 Ed.  
primi Cap. 2.*

Now before this Statute the Church-men pleaded exemption from the Temporal Law; and offenders, it should seem, which were Church-men claimed a privilege to be only liable to the power of the Church.

In the next place you will find by the Statute of Edward the First in the thirteenth year of his Reign the Spiritual Courts were prescribed what it was they should be suffered to take Cognizance of and no more, see the Statute, *Viz.*

The King to his Judges tenderly granting, All your selves circumfpectly in all matters concerning the Bishop of Norwich and his Clergy, not punishing them if they hold plea in Court Christian of such things as be meer Spiritual, that is, to wit, of Penances enjoined by Prelates for deadly sins, as Fornication, Adultery, and such like, for the which sometimes corporal Penance, and sometimes pecuniary is enjoined, especially if a freeman be convicted of such things.

*Called Stat. de  
circumsp. a-  
gatis made  
13 E. 1. Anno  
Dom. 1285.*

Now after this Kings time those Spiritual men finding themselves by his Laws kept within some moderate bounds, grew very uneasie; and therefore in Edward the Second's time they began to stir for the enlarging their power: For you will find in his Reign that the Clergy got Laws to pass them, that the Clergy might correct in their Spiritual Courts for defamation, and corporal penance was to be enjoined, as you may see by the Rolls of those times.

*Vide Rot. de  
Artic. Cltri  
An. 9 Ed. 2. &  
4 D. 1315.*

In these Statutes made at *Deob.* they had diverse Privileges given them, as in the third Chapter they had power attributed them to lay Compoel punishment.

*Idem Cap. 3.*

And in the fourth Chapter, Prelates might correct for Defamation by that Statute.

*Cap. 4.*

In the fifth Chapter it appears that the Clergy did use to ride the King's servants, and punish them at their

*Idem Cap. 5.*

plea.

pleasure, till they were limited and bounded by this Ordinance: which Ordinance, *viz.*

It pleased our Lord the King that such Clerks that attend in his service, if they offend, they shall be corrected by their Ordinary, like as other, but so long as they are occupied about the Exchequer, they shall not be bound to keep Residence in their Churches.

*Idem Cap. 14.*

And in the same year among the Articles made for to give power, and to restrain: it is ordained, *viz.*

Also if any dignity be vacant, where Election is to be made, it is made that the Electors may freely make their Election without fear of any power Temporal.

The Kings Answer was, They shall be made free according to the form of Statutes and Ordinances.

This power continued to the Clergy till King Henry the Eighth, only sometimes there was some small abridgements by several Statutes and Ordinances, as in 31 Ed. 3. Cap. 4. where their Extortion about Fees was by the Statute regulated.

*Vide Ric.*

*31 Ed. 3. Cap. 4.*

The next thing wherein the wings of the Clergy were clipped, was by the Statute of 16 Rich. 2. Cap. 5. which declares purchasing Bulls from the See of Rome unlawful, and a Premunire so to do: and ordains among diverse other things, *viz.*

*Vide 16 Rich.*  
*2. Cap. 5.*

Whereupon our Lord the King by the assent aforesaid, and at the request of the said Commons hath ordained and established that if any purchase or pursue or cause to be purchased or pursued in the Court of Rome by letters, or by any such Translations, Processes or Sentences of Excommunications, Bulls, Instruments, or any other things whatsoever, which touch the King, against him, his Crown, or his Regality, or his Realm, or is aforesaid, and they which lying within the Realm, by them receive, or make thereof Notification, or any other Execution whatsoever, within the same Realm or without, that they, their Notaries, Procurators, Maintainers, Sheriffs, Clerks, and Counsellors, shall be put out of the Kings protection, and shall forfeit all their

their Lands and Tenements, Goods and Chattels, and make Ransome to the King, &c. and that they be made against them by writ of *Præmunire* &c. in manner as it is contained in great Statutes of *Parliaments* and others, which be in any other Court, in derogation of the Regality of our Lord the King.

In Henry the Seventh's time we find the Clergy prayed Aid of the Common Law, to help them to punish their Priests and Clerks for Incontinency.

*vide H. 7. cap. 4.*

Which Statute gives the Bishops power to punish such offender by their Episcopall Jurisdiction; as was to them thought most meet, and to be freed from any action to be brought against them for the same at Law.

Thus they continued without any Interruption until the fatal time of Henry the Eighth, and even in his time till the twenty first we do not find any great adding or diminishing from them or the power they pretended to by their Canon Law, for it must be observed, and it will not be denied by any person, but that till the power the Clergy of England ever had, except what was given them by Statute Law, was only the Canon Law brought with them from their unholy Mother, the Church of Rome.

In 21 H. 8. cap. 12. Spiritual persons are abridged from having pluralities of Livings, and from taking of Farms, or to deal in Merchandize, and that all Dispensations contrary to this Statute shall be void, by which it seems the Clergy were Merchants for Temporals as well as Spiritual before that time.

*Stat. 21 H. 8. cap. 12.*

In 21 H. 8. cap. 9. another Act was made which reaches their Court more especially than any before that time, called, viz. (the Bill of *Clerical*) in which Law the Arch-Bishops and Bishops are enjoined not to cite any person out of their own Diocels where they live under a severe penalty, except it be for Heresie and Probates of Wills, in which Law is provided 10 l. damages, besides cost to be recovered by the party grieved by action or otherwise.

*21 H. 8. cap. 9.*

In the same Act, Sect. 6. this very clause also is contained,

*Sect. 6.*

And he is enacted by the Authority aforesaid, that no Arch-Bishop or Bishop, Ordinary, Official, Commissary, or any other Substitute or Minister of the said Arch-Bishops, Bishops, Arch-Deacons, or others having

*Epi.*



Spiritual Jurisdiction, at any time from the Feast of Easter next coming, shall ask, demand, take or receive of any of the Kings Subjects any sum of money or money to the Seal of any Station after the said Feast, to be awarded or obtained, then only 10 Sterling, upon the pains and penalties afore limited, contained and expressed in this present Act to be in like form recovered, as is aforesaid.

But now though this Law is so plain as nothing can be made more plain, yet to this day their Spiritual Courts Conscience are large enough to take instead of a 10 for every Sealed Citation not less than 6, 8, or 10 such like sum, to the shame and reproach not only to themselves, but even to the whole Nation that suffers such abuses to be put upon the people contrary to all Law, and when remedy may easily be had.

In 24 H. 8. c. 12. Another Act was made, which takes away all Appeals to the See of Rome, and because it may most evidently appear that the Spiritual and Temporal Jurisdiction was ever a Flower to the Imperial Crown of this Realm, I shall here insert *in hac verba* part of the second Section of that Statute, viz.

And whereas the King and his most noble Progenitors, and the Nobles and Commons of this Realm, at divers and sundry Parliaments, as well in the time of King Edward the First, Edward the Third, Richard the Second, Henry the Fourth, and other Noble Kings of this Realm, made sundry Ordinances, Laws, Statutes and Prohibitions, for the entire and true conservation of the prerogatives, liberties and prebeminencies of the said Imperial Crown of this Realm, and of the Jurisdictions Spiritual and Temporal of the same, to keep it from the Annoyance as well of the See of Rome, as from the Authority of other foreign Potentates attempting the diminution or violation thereof, as often and from time to time, as any such annoyance or attempt might be known or espied, and notwithstanding the said good Statutes and Ordinances made in the time of the Kings most noble Progenitors, in preservation of the Authority and Prerogative of the said Imperial Crown as is aforesaid, &c.

By



By which recital in this Statute it is most plain, that all  
 Spiritual Jurisdiction is and ought to be derived from and  
 under the Prerogative of the King and the Imperial Crown  
 of this Realm, and will more fully appear by the remaining words  
 of the Statute following hereunto annexed. *H. 8. c. 19.*  
 But now again the same Statute in the whole purport of the  
 Clergy and all other persons who are acknowledged to be the  
 the King and all Canons and others, and they do hereby make  
 more fully and distinctly known and under him, by virtue  
 of this Act enacted, in full submission of the Clergy  
 and all other persons who are acknowledged to be the Clergy  
 and all other persons who are acknowledged to be the Clergy

Whereas the Kings humble and obedient Subjects  
 the Clergy of the Realm of England have not only ac-  
 knowledged according to truth, that the Conventions of  
 the same Clergy are always hath been, and ought to be  
 assembled only by the Kings writ, but also submitting  
 themselves to the Kings Majesty, have professed (in  
 verbo sacerdotii) that they will never from henceforth  
 presume to attempt, allege, claim, or put in use, any  
 privilege, or statute, or new Canons, Constitutions,  
 Ordinances, Provincial or others, or by whatsoever  
 name they shall be called in the Conventions, unless the  
 Kings most Royal assent and licence, made to them in that  
 behalf, shall be given to them. And that his Majesty  
 do give his most Royal assent and authority in that be-  
 half. And whereas diverse Constitutions, Ordinances and  
 Canons, Provincial or Synodal which heretofore have been  
 enacted and be thought not only to be much prejudicial to  
 the Kings Prerogative Royal, and repugnant to the Laws  
 and Statutes of this Realm, but also obnoxious and  
 to his Majesty and his Subjects. The said Clergy have  
 most humbly besought his highness that the said Consti-  
 tutions and Canons may be committed to the examina-  
 tion and Judgement of his highness, and of thirty two  
 persons of the Kings Council, whereof fifteen to be  
 of the upper and nether house of Parliament of the Tem-  
 porality, and the other fifteen to be of the Clergy of this  
 Realm, and all of the said thirty two persons to be chosen  
 and appointed by his Majesty.

And in the said Statute it is made to the said Clergy and  
 all other persons who are acknowledged to be the Clergy  
 and all other persons who are acknowledged to be the Clergy  
 and all other persons who are acknowledged to be the Clergy

And then Endless viz.

Be it therefore Enacted by the Authority of this present Parliament, according to the said submission and petition of the said Clergy that they nor either of them nor any of them shall presume to attempt, allege, claim, or put in use any Constitutions or Ordinances, Provincial or Synodical, or any other Canons, nor shall enact, promulge, or execute any such Canons, Constitutions, or Ordinances Provincial, or whatsoever name or names they may be called in their constitutions in time coming, which always shall be assembled by authority of the Kings of England their heirs and eldest sons and eldest daughters.

In the year 1534. the Statute was made, which gave the King the sole power of making Canons, and the old Canons were made void. And the King's writ was made, which gave the King the sole power of making Canons, and the old Canons were made void. And the King's writ was made, which gave the King the sole power of making Canons, and the old Canons were made void.

25 H.B. C. 20.

*Idem* cap. 21.

that this Land ought not to be subject or bound to any humane Laws but such as are of their own making within this Realm.

The King being declared head of the Church, it is expressly there enacted (*viz.*) Shall have full power and authority from time to time to visit, repress, redress, reform, order, correct, restrain all such errors, heresies, abuses, offences, contempts and enormities, whatsoever they be, which by any manner of Spiritual Authority or Jurisdiction ought or may lawfully be reformed, repressed, ordered, redressed, corrected, restrained or amended, most to the pleasure of Almighty God, &c. 26 H. 8. cap. 1.

This being the Case, what colour can here be for any Spiritual or Ecclesiastical power to any person whatever, but what must be derived from and under the King, and by his Authority and Commission, and in his name and not in their own, nor in the Bishop of Rome.

But because the Reader may be more fully satisfied, I have here inserted the Statute made 37 H. 8. cap. 17. Entituled, *viz.* A Bill that the Doctors of Civil Law being married may exercise Ecclesiastical Jurisdiction. 37 H. 8. cap. 17.

In most humble wise shew and declare unto your highness your most faithful, humble and obedient Subjects, the Lords Spiritual and Temporal, and the Commons of this present Parliament assembled, That whereas your Royal Majesty is, and hath always been, justly by the word of God, Supreme head in the Earth in the Church of England, and hath full power and authority to correct, punish, and repress all manner of heresies, Errors, Vices, Sins, Abuses, Idolatries, Hypocrisies and Superstitions, sprung and growing within the same, and to exercise all other manner of Jurisdictions, commonly called Ecclesiastical Jurisdiction: Whereby the Bishop of Rome and his adherents, minding utterly as much as in him lay, to abolish, obscure and delete such power given by God to the Princes of the Earth, whereby they might gether and get to themselves the Government and rule of the world, have in their Councils and Synods Provincial, made, ordained, established and decreed diverse Ordinances and Constitutions, that no Lay or married man should or might exercise or occupy any Jurisdiction

dition Ecclesiastical, nor should be any Judge or Registrar in any Court, commonly called Ecclesiastical Court, lest their false and usurped power, which they pretend, and went about to have in Christs Church should decay, was void, and be of no reputation, as by the said Com-  
 mons and Confessions of the Provincial appears, which standing and remaining in effect, may not be abolished by your Grace, unless you should have sufficient request, greatly for the said usurped power of the said Bishop of Rome, and to be directly repugnant to your Majesty's supreme head of the Church, also Protestant, Royal, your Grace being a Layman, and so against the Statute, 25 Hen. 8. c. 19.

And albeit the said Decree, Edw. 6. had Confessions, by a Statute made in the five and twentieth year of your most noble reign, be utterly abolished, null, void, and of none effect, yet because the contrary thereof is not used, nor put in practice by the said Bishops, Archdeacons, and other Ecclesiastical persons, who have no manner of Jurisdiction Ecclesiastical, but by, under, and from your Royal Majesty, it addeth, as at the least may give occasion to some evil disposed persons, to think, and little to regard the proceedings and censures Ecclesiastical made by your Highness and your Treasurer, Officials, Commissaries, Judges and Visitators, being also Lay and Protestant, but of little or none effect, as they do to the people, hatherth heard and presumption to be evil, and now do have such contempt to your most Holy injunctions and proceedings as becometh them. And as your Grace had said, 25 Hen. 8. c. 19. But forasmuch as your Majesty is the only and undoubted supreme head of the Church of England, and also of Ireland, to whom by Holy Scripture all authority and power is wholly given to hear and determine all manner of causes Ecclesiastical, and to correct all bies and sin, whatsoever, and to all such persons as your Majesty shall appoint therein: That in consideration thereof, as well for the instruction of ignorant persons, as also to avoid the occasion of the opinion aforesaid, and the setting forth of your prerogative Royal and Supremacy, and now more in It may therefore please your Highness, that it may be ordained and enacted by the authority of this present Parliament, That all and singular persons, as well Lay, as those that be now married, or hereafter shall be married, being Doctors of the Civil Law, lawfully create





King, according to the Laws made by his Father. And it appears by the Statute, Entituled, *viz.* An Act for the Election of Bishops.

Which Act, for the better information I have inserted at large, hoping those worthy Spiritual men will vouchsafe the reading it. Which is as follows:

1 Ed. 6. cap. 2.

**INASMUCH** as the Elections of Arch-Bishops and Bishops by the Deans and Chapters within the Kings Majestys Realms of England and Ireland at this present time, be as well to the long delay, as to the great costs and charges of such persons, as the Kings Majesty gi-  
veth any Arch-Bishoprick or Bishoprick unto: And whereas the said Elections be in very deed no Elections, but only by a Writ of Conge d'Esire, have colours, shadows or pretences of Elections, serving nevertheless to no purpose, and seeming also derogatory and prejudicial to the Prerogative Royal, to whom only appertaineth the Collation and gift of all Arch-Bishopricks, and Bishopricks, and Suffragan Bishops within his Highness said Realms of England and Ireland, Wales, and other his Dominions and Marches: For a due reformation betwixt, Be it therefore enacted by the Kings Highness, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by Authority of the same, That from henceforth no such Conge d'Esire be granted, nor Election of any Arch-Bishop or Bishop by the Dean and Chapter made: But that the King may by his Letters Patents at all times when any Arch-Bishoprick or Bishoprick is void, confer the same to any person to whom the King shall think meet: The which Collations so by the Kings Letters Patents made, and delivered to the person whom the King shall confer the same Arch-Bishoprick or Bishoprick, or to his sufficient Proctor or Attorney, shall stand to all intents, constructions and purposes, to as much and the same effect, as though Conge d'Esire had been given, the Election duly made, and the same confirmed. And thereupon the said person to whom the said Arch-Bishoprick, Bishoprick, or Suffraganship is so conferred, collated or given, may be consecrated, and sue his Liberty or Ouster le Main, and do other things as well as if the said Ceremonies and Elections had been done and made.

Probi-

Provided always, and be it Enacted by the Authority aforesaid, that every such person, to whom any collation and gift of any Arch-Bishoprick or Suffragan Bishoprick shall be given or collated by the King, his Heirs or Successors, shall pay, do and yield to all and every person all such fees, interests, and duties, as of old time hath been accustomed to be done, any thing to the contrary in any other to the contrary hereof in any wise notwithstanding.

And whereas the Arch-Bishops and Bishops and other Spiritual persons in this Realm, do use to make and send out their summonses, citations, and other process, in their own names, and in such form and manner as was used in the time of the aforesaid power of the Bishop of Rome, contrary to the form and order of the summonses and process of the Common Law used in this Realm (Seeing that all Authority of Jurisdiction, Spiritual and Temporal, is derived and deduced from the Kings Majesty as supreme head of these Churches, and Realms of England and Ireland, and so justly acknowledged by the Clergy of the said Realms, that all Courts Ecclesiastical within the said two Realms, be kept by no other power or authority, either foreign or within the Realm, but by the authority of his most excellent Majesty. Be it therefore further enacted by the Authority aforesaid, that all summonses and citations, or other process Ecclesiastical, in all suits and causes of Instance between party and party, and all causes of Correction, and all causes of Bastardy or Bigamy, or enquiry de iur patronatus, Probates of Testaments, and Commissions of Administrations of persons deceased, and all Acquittances of, and upon account made by the Executors, Administrators, or Collectors of goods of any dead person, be from the first day of July next following, made in the name, and with the stile of the King, as it is in Letters Original or Judicial at the Common Law; And that the Seal thereof be in the name of the Arch-Bishop or Bishop, or other, having Ecclesiastical Jurisdiction, who hath the Commission and grant of the Authority Ecclesiastical immediately from the Kings Highness, and that his Commissary, Official or Substitute, exercising Jurisdiction under him, shall put his name in the Citation or Process after the Seal.



[illegible]



Provided always, and be it Enacted by the Authority  
aforesaid, that all Process hereafter to be made or awarded  
by any Ecclesiastical person or persons, for the Trial of  
any Plea or Pleas, or matter depending, or that hereaf-  
ter shall depend in any of the Kings Courts at Record  
at the Common Law, and limited by the Laws and  
Customs of this Realm, to the Spiritual Courts to  
try the same, that the Certificate of the same, after the  
Trial thereof, shall be made in the Kings name for the  
same being, and with the Style of the said Kings name  
under the Seal of the Bishop, granted with the Kings  
Arms, with the name of the Bishop by Spiritual Offi-  
cer, being to the Test of the same Process and Certificate,  
and to every of them.

In this Statute there are divers things which are  
not in the Law, that not only the power of Spi-  
ritual Courts, and all manner of jurisdiction must be de-  
rived from and under the King, but also that they hold any  
must be in the Kings name with his name in their Courts,  
and all Process must have the Kings Title and not their own,  
otherwise than to the Test of the Process as in judicial Pro-  
ceedings in other Courts.

If this be so, as there is no man dare own the contrary,  
then what colour have the Bishops in their Spiritual Courts  
at this day to hold them in their own names, and to hold  
out Process under their own Seals as if they were all pa-  
ramount the King, and even as big as the Pope himself  
for so runs their Process, viz. I cite you to appear before  
me, &c. at such a place. Now I would fain know what  
this is, whether it be I Pope, or I Bishop, or I Clerk,  
that dare be thus bold with the Law and their Sovereigns,  
not only in eclipsing his prerogative, but indeed setting  
themselves above him and the Law, which surely should  
but a Fanatick dare to do but one half so much, it would  
be both Hell and damnation, if not the Fanatick should  
much talked of by these great Loyalists.

But I must now come to shew you what they present  
against this Law, for had they no excuse at all they would not  
be legitimate.

[illegible]

In this Statute there are diverse Acts repealed by name, but this Act of 1466 is not named, but is supposed to be implied, because it was against the jurisdiction of Rome, but it may be a good repeal without naming the Statute from which it is well considered.

This plainly appears by the Statute of *Eliz. cap. 1* which restores to the Crown the Ancient Jurisdiction and abolishes all foreign power in Causes Ecclesiastical, and repeals the Statute of Repeal made in the first and second of *Philip and Mary*. Which is as follows:

An Act to restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical and Spiritual; and abolishing all foreign power repugnant to the same. Which begins thus: Whereas by Letters under the Great Seal of Great Britain bearing date the first day of January last past, did pass an Act, intituled "An Act for restoring to His Majesty's High Court of Chancery the full Power, Authority, and Jurisdiction, which hath been formerly exercised by the said Court, touching the Administration of Justice, in Causes relating to the Clergy, and other Ecclesiastical Persons," and

...the Law, for had they no excuse at all they would not

Most humbly beseech your most Excellent Majesty your *Seet. 1.*  
 faithful and Obedient Subjects, The Lords Spiritual and  
 Temporal, and the Commons in this your present Parlia-  
 ment assembled: That where in the time of the reign of your  
 most dear Father of Memory Henry the 8th.  
 divers good Laws and Statutes were made and Established,  
 as well for the utter extinguishment and putting away of all  
 usurped and Foreign powers and Authorities out of this your  
 Realm, and other your Highness Dominions and Countreies,  
 as also for the restoring and uniting to the Imperial Crown  
 of this Realm, the Ancient Jurisdictions, Authorities, Su-  
 periorities, and Prebeminencies to the same of right be-  
 longing and appertaining, by reason whereof, we your most  
 humble and obedient Subjects, from the five and twentieth  
 year of the reign of your said dear Father, were continually  
 kept in good order, and were disburdened of diverse great  
 and intollerable charges and exactions before that time un-  
 lawfully taken, and exacted by such Foreign power and au-  
 thority as before that was usurped, until such time as all the  
 said good Laws and Statutes by one Act of Parliament  
 made in the first and second years of the Reigns of the late  
 King Philip, and Queen Mary your Highness Sister intituled  
 an Act repealing all Statutes, Articles and provisions made  
 against the See Apostolick of Rome; since the twentieth year  
 of King Henry the eight, and also for the Establishment of all  
 Spiritual and Ecclesiastical possessions and Hereditaments  
 conveyed to the Laity, were all clearly repealed and made  
 void, as by the same Act of Repeal more at large, doth and  
 may appear; By reason of which Act of Repeal, your said  
 humble Subjects were afterwards brought under an usurped  
 Foreign power and Authority, and yet do remain in that  
 bondage, to the intollerable charges of your loving Sub-  
 jects, if some redress (by Authority of this your high Court  
 of Parliament, with the assent of your Highness) be not  
 had and provided.

May it therefore please your Highness, for the suppressing *Seet. 2.*  
 of the said usurped Foreign power, and the restoring of the  
 Rites, Jurisdictions and Prebeminencies appertaining to  
 the Imperial Crown of this your Realm, that it may be  
 Enacted, by Authority of this present Parliament: That  
 the said Act made in the first and second years of the Reign  
 of the said late King Philip and Queen Mary, and all and  
 every branches, Clauses and Articles therein contained  
 (other then such branches, Clauses and Sentences, as here-  
 after shall be excepted) may from the last day of this Session  
 of Parliament, by Authority of this present Parliament,  
 be repealed, and shall from thenceforth be utterly void and  
 of none effect.

And to the intent that all Usurped and Foreign power and *Seet. 16.*  
 Authority Spiritual and Temporal, may for ever be clearly  
 extinguished, and never be used or obeyed within this Realm,



in any other your Majesty's Dominions or Countries, May it please your Majesty that it may be further enacted by the Authority aforesaid, That no Foreign Prince, Person, Prelate, Duke or Potentate, Spiritual or Temporal, shall at any time what the full day of this Session of Parliament, use, exercise or manner of power, Jurisdiction, Superiority, Dominion, Preeminence, or Privilege Spiritual or Ecclesiastical, within this Realm, or within any other your Majesty's Dominions or Countries that now be, or hereafter shall be, but from thenceforth the same shall be clearly abolished out of this Realm, and all other your Majesty's Dominions for ever: and Statute, Ordinance, Custom, Constitution, or any other matter or cause whatsoever to the contrary in any wise notwithstanding.

Seff. 17.

And that also it may please your Majesty that it may be established and enacted by the Authority aforesaid that such Jurisdictions, Privileges, Superiorities and Preeminences Spiritual and Ecclesiastical as by any Spiritual or Ecclesiastical power or Authority hath heretofore been or may hereafter be exercised or used for the Constitution of the Ecclesiastical State and Persons, and for Reformation, order and correction of the same and of all manner of Errors, Heresies, Schisms, Usages, Offences, Contempts, and Excommunications, shall for ever, by Authority of this present Parliament be united and annexed to the Imperial Crown of this Realm.

Now by these Branches of this Statute it is most clear that all manner of Jurisdiction in Causes Spiritual and Ecclesiastical is more absolutely invested in the Crown then ever before, so that if that of Edward the sixth be repealed, yet here it is past all doubt that Act is now by this more enforced then ever: And that it may appear more plain, that no Court Spiritual was to Act any more but by Authority from the Queen in the next Section of this Statute of 1. Eliz. Power was given to the Queen in express words to grant Commissions (to hold Courts) under the great Seal of England, or else by this Statute none could be held at all neither in their own name, nor in the name of the Queen, which branch of the said Statute runs thus.

Seff. 18.

And that your Majesty your Heirs and Successors, Kings or Queens of this Realm, shall have full power and authority by virtue of this Act, by letters patents under the great Seal of England, to assign, name and authorize, when and as often as your Majesty your Heirs or Successors shall think meet and convenient, and for such and so long time as shall please your Majesty, your Heirs or Successors



such person or persons being natural born Subjects to your Highness your Heirs and Successors, as your Highness your Heirs and Successors shall think meet to exercise, use, exercise and execute under your Highness your Heirs and Successors, all manner of Jurisdictions, Prerogatives, and Privileges in any wise touching or concerning any Spiritual or Ecclesiastical Jurisdiction within your Realm of England and the Land of any other your Highness your Heirs and Successors, and to visit, reform, correct, amend, correct, and amend all such errors, heresies, schisms, abuses, offences, contemptes, and enormities whatsoever which by any manner of Spiritual or Ecclesiastical power Authority or Jurisdiction can or may lawfully be reformed, ordered, reformed, corrected, restrained, or amended to the pleasure of Almighty God, the increase of vertue, and the conservation of the peace and unity of this Realm. And that such person or persons so to be named, assigned, authorized and appointed by your Highness, your Heirs or Successors, after the said Letters Patents to him or them made and delivered, as is aforesaid, shall have full power and authority by virtue of this Act and of the said Letters Patents under your Highness, your Heirs and Successors, to exercise, use and execute all the premises; according to the Tenor and effect of the said Letters Patents; any matter or cause to the contrary in any wise notwithstanding.

Here it is most evident that the Queen had the only sole power to nominate, and appoint by her Commission under the great Seal of England, both lay-men as well as Bishops to exercise Ecclesiastical Jurisdiction when and as often as she pleased, and it is most evident it was not to be done at all without such Commissions.

But besides this Law it was the practice both in the times of Edward the sixth, Queen Elizabeth and King James; That all the Bishops, and the Spiritual Courts whatsoever were held by such Commissions and to satisfy the Reader I have here inserted a Copy of one of them taken out of the Rolls, *Verbatim*, viz.

Elizabeth by the Grace of God, &c. To the Reverend *Rot. 9. Part.*  
Father in God Mathew Parker nominated Bishop of *Canter-*  
*bury*, and Edmond Grindale nominated Bishop of *London*,  
And to our right Trusty and well beloved Counsellor  
*Francis Knowle* our Vice-chamberlain, and *Thomas Cave*  
Knight. And to our Trusty and well beloved *Anthony*  
*Coke* and *Thomas Smith* Knights, *William Bill* our Almoner,  
*William Haddon* and *Thomas Gower* Masters of our  
Chambers, *Robert Hall* and *William Chester* Knights, *Richard*  
*Cholmley*

*Tholmely and John Southcote Serjeants at the Law, William May Doctor of Law, Francis Cave, Richard Goodrick and Gilbert Gerrard Esquires, Robert Weston and Hunck*  
 Doctors of Law, Greeting. Where as our Parliament holden at Westminster the Five and Twentieth Day of January, and there continued and kept until the Day of May then next following; Amongst other things, there was Two Acts and Statutes made and Established; the one Intituled, *An Act for the Uniformity of the Common-Prayer and Service in the Church, and Administration of the Sacraments;* And the other Intituled, *An Act, Restoring to the Crown the Antient Jurisdiction of the State-Ecclesiastical and Spiritual, and Abolishing all Forraign Power repugnant to the same.* As by the same several Acts more at large doth appear: And whereas divers Seditious and Slanderous Persons do not cease daily to invent and set forth false Rumours, Tales, and Seditious Slanders, not only against us and the said good Laws and Statutes, but also have set forth divers Seditious Books within this our Realm of England, meaning thereby to move and procure Strife, Division, Dissention amongst our Loving and Obedient Subjects, much to the Disquieting of us and our People. Wherefore we earnestly minding to have the same Acts before mentioned, to be duely put in Execution; and such Persons as shall hereafter Offend in any thing contrary to the Tenor and Effect of the said several Statutes to be accordingly punished; and haveing Especial Trust and Confidence in your Wisdoms and Discretion, have Authorized, Assigned and Appointed you to be our Commissioners. And by these Presents, do give our full Power and Authority to you, or Six of you, whereof you the said *Matthew Parker, Edmond Grendale, Thomas Smith, Walser Haddon, Thomas Sackford, Richard Godrick, and Gilbert Gerrard,* to be one from time to time hereafter, dureing our pleasure, to Inquire as well by the Oaths of Twelve Good and Lawful Men; as also by Witnesses, and all other Lawful ways and means you can devise, for all Offences, Misdooers and Misdemeanors done and committed of them, and hereafter to be committed or done contrary to the Tenor and Effect of the said several Acts and Statutes, and either of them; and also of all and singular Heretical Opinions, Seditious Books, Contempts, Conspiracies, false Rumours, Tales, Seditious Misbehaviours, Slanderous Words, or Shewings, published, invented, or set forth; or hereafter to be published, invented, or set forth by any Person or Persons, against us, or contrary,

or

or against any of the Laws or Statutes of this our Realm, not  
 against the quiet Governance and rule of our People and Sub-  
 jects, in any County, City, Burrough, or other place or places  
 within this our Realm of England, and in all and every the  
 Conjurors, Counsellors, Comforters, Proctors and Advo-  
 cators of any such Offenders. And further, We do give Pow-  
 er and Authority to you or six of you, whereof one and  
 Mathew Parker, Edmond Grindale, Thomas Smith, Walter  
 Haddon, Thomas Sackford, Richard Godrick, or Gilbert  
 Gerrard, to be one from time to time hereafter during our  
 pleasure, as well to hear and determine all the premises, as  
 also to inquire, hear, and determine all and singular enor-  
 mities, disturbances, and misbehaviors done and committed  
 or hereafter to be done and committed in any Church or  
 Chappell against any Divine service, or the Minister or  
 Ministers of the same, contrary to the Laws and Statutes  
 of this Realm, and also to enquire oft search out and to  
 order correct and reform all such persons as hereafter shall  
 we will absolutely absent themselves from Church, and  
 such Divine Service as by the Laws and Statutes of this  
 Realm, is appointed to be had and used. And also we do  
 give and grant full power, and Authority to you or six of  
 you whereof you the said Mathew Parker, Edmond Grindale,  
 Thomas Smith, Walter Haddon, Thomas Sackford, Richard  
 Godrick, or Gilbert Gerrard, to be one from time to time  
 and at all times during our pleasure, to visit, reform, redress,  
 order, correct, and amend in all places within this our Realm  
 of England, all such Errors, Heresies, Schisms, Abuses, Of-  
 fences, Contempts, and Enormities Spiritual and Ecclesi-  
 astical wheresoever, which by any Spiritual or Ecclesiastical  
 Power, Authority, or Jurisdiction can or may be lawfully  
 reformed, ordered, redressed, corrected, restrained or a-  
 mended to the pleasure of Almighty God, the increase of  
 Merit, and the Conservation of the Peace and Unity of  
 this our Realm, and according to the Authority and  
 power limited, given and Appointed by any Laws or  
 Statutes of this Realm. And also that you and six of you  
 whereof the said Mathew Parker, Edmond Grindale, Thomas  
 Smith, Walter Haddon, Thomas Sackford, Richard Godrick,  
 or Gilbert Gerrard to be one, shall likewise have full power  
 and Authority from time to time to enquire oft and search  
 out all Meretricious quarrels, Vagant, and suspected per-  
 sons within our City of London, and ten Miles Compass  
 about the same City, and of all assaults, and affrays done  
 and



and committed within the same City, and the compass  
aforesaid. And also we give full power and Authority unto  
you and six of you as before sumerly to hear, and finally  
determine according to your discretions and by the Laws  
of this Realm all Causes and Complaints of all them which  
in respect of Religion or for lawfully Matrimony con-  
tracted and allowed by the same where unjustly de-  
prived defrauded or spoiled of their lands Goods, Pos-  
sessions, Rights, Dignities, Livings, Offices, Spiritual or  
Temporal; and them so deprived as before, to restore unto  
their said livings, and to put them into possession amoveing  
the Usurpers in convenient speed, as it shall seem to your  
discretions good by your Letters, Message, or otherwise all  
frustratory appellations clearly rejected. And further we  
do give Power and Authority unto you, and six of you  
whereof you the said *Mathew Parker, Edmond Grindale,*  
*Thomas Smith, Walter Haddon, Thomas Sackford, Richard*  
*Godrick, or Gilbert Gerrard* to be one by vertue hereof  
full Power and Authority, not only to hear and determine  
the same and all other Offences and matters before men-  
tioned and rehearsed, but also all other Notorious and  
manifest advoutry and Fornications, and Ecclesiastical crimes  
and offences within this our Realm according to your Wis-  
doms, Consciences and Discretions willing and commanding  
you or six of you, whereof you the said *Mathew Parker,*  
*Edmond Grindale, Thomas Smith, Walter Haddon, Thomas*  
*Sackford, Richard Godrick, or Gilbert Gerrard* to be one  
from time to time hereafter to use and devise all such pol-  
litick ways, and means for the Tryal and Searching out of  
all the premises as by you or six of you as aforesaid shall be  
thought most expedient necessary, and upon due proof had,  
and the Offence or Offences before specified or any of them  
sufficiently proved against any person or persons, as by you  
or six of you, by confession of the party or by lawful  
Witnesses or by any other due means before you or six of  
you whereof the said *Mathew Parker, Edmond Grindale,*  
*Thomas Smith, Walter Haddon, Thomas Sackford, Richard*  
*Godrick, or Gilbert Gerrard* to be one, that then you or  
six of you as aforesaid, shall have full power and Authority  
to award such Punishment to every Offender by fine Im-  
prisonment or otherwise by all or any of the ways afore-  
said, and to take such order for the redress of the same as  
to your Wisdoms and Discretions or six of you, whereof  
the said *Mathew Parker, Edmond Grindale, Thomas Smith,*  
*Walter*



*Walter Haddon, Thomas Sackford, Richard Godrick, or Gilbert Gerrard* to be one to call before you or six of you, as aforesaid from time to time, all and every Offender or Offenders, and such as by you and six of you as aforesaid shall seem to be suspected persons in any of the premises, and also, All such Witnesses as you or six of you, as aforesaid shall think fit to be called before you or six of you as aforesaid, and them and every of them to examine upon their Corporal Oaths, for the better Tryal and opening of the premises or any part thereof. And if you or six of you as aforesaid shall find any person or persons obstinate or disobedient, either in their apparel before you or six of you as aforesaid, at your calling and Commandment or else not accomplishing or not obeying your Orders, Decrees, and Commandments, in any thing touching the premises or any part thereof, that then you or six of you as aforesaid shall have full Power and Authority to commit the same person or persons so offending, toward there to remain until he or they shall be by you or six of you as aforesaid, enlarged and delivered. And further we do give you and six of you whereof the said *Matthew Parker, Edmund Grindale, Thomas Smith, Walter Haddon, Thomas Sackford, Richard Godrick, or Gilbert Gerrard* to be one full Power and Authority, by these presents to take and receive by your Discretions of every Offender, or suspected person to be convented and brought before you a Recognizance or Recognizances Obligation or Obligations to our use in such sum or sums of Mony as to you or six of you as aforesaid shall seem Convenient, as well for their personal appearance, before you or six of you as aforesaid, as also for the performance and accomplishment of your Orders and Decrees, in case you or six of you as aforesaid shall see it so convenient. And further our will and pleasure is, that you shall appoint Our Trusty and well beloved *John Skinner* to be your Register of all your Acts, Decrees, and Preceedings by vertue of this Commission, and in his default one other sufficient person, and that you or six of you as aforesaid, shall give such Allowance to the said Register for his pains, and his Clerks to be levied of the fines, and other profits that shall arise by force of this Commission; and your devices in the premises as to your Discretions shall be thought meet. And further our will and pleasure is, that you or six of you as aforesaid shall name and appoint one other sufficient person to gather up,

and

and receive all such sums of Mony as shall be assessed, and Taxed by you or six of you as aforesaid, for any fine or fines upon any person or persons for their Offences. And that you or six of you as aforesaid, by Bill or Bills signed with your hands, shall and may assign and appoint as well as to the said person for his pains in receiving the said sums. As also to your Messengers and Attendants upon you for their trouble pains and charges to be sustained for us about the premises or any part thereof such sums of Mony for their rewards as by you or six of you as aforesaid shall be thought expedient, willing and commanding you or six of you as aforesaid, after the time of this our Commission expired to come unto our Courts of Exchequer, as well the name of the said Receiver as also a Note of such fines as shall be set or taxed before you, to the intent that upon the determination of Account of the said Receiver we shall be answered of that to us shall justly appertain, Willing and Commanding also our Auditors, and other Officers upon the sight of the said Bills, signed with the hands of you or six of you as aforesaid, to make unto the said Receiver due allowances according to the said Bills upon his account. Wherefore we will and Command you our Commissioners with Diligence to Execute the premises with effect any of our Law, Statutes, Proclamations or other grants privileges or Ordinances, which be or may seem to be contrary to the premises notwithstanding. And more, we will and command all and singular Justices of peace, Majors, Sheriffs, Bayliffs, Constables, and other our Officers, Ministers, and faithful Subjects to be ayding helping and assisting you, and at Commandment in the Due Execution hereof as they tender our pleasure, and will Answer the contrary at their utmost perills. And we will and grant these our Letters, Patents, shall be a sufficient Warrant and discharge for you, and every of you against us our Heirs and Successors, and all and every other person or persons whatsoever they be of and for or concerning the premises, or any parcel thereof, of or for the Execution of this our Commission or any part thereof Witness the Queen at Westminster the Nineteenth day of July, Anno Regni Regine Elizabethæ Primo.

Per ipsam Regiam.

Thus

Thus by what hath been said, you see both by Statute, Law and Precedent, of the very Commission themselves which the Bishops Acted by, it is clear they ought not to Act or Hold any Courts whatsoever in their own Names, nor in the Kings, without his Special Commission under the great Seal of England. And altho' there was a Statute made in the First of Queen Mary, Intituled, *An Act for Repeal of certain Statutes made in the time of King Edward the Sixth*; yet by the First of King James, Cap. 25. that Statute of Repeal is Repealed, so that cannot stand our Spiritual Persons in no stead at all, tho' my Lord Cook did insist upon it in his 2d. Institutions.

vid. 1 Jac.  
Cap. 25.

But to proceed, In the 8th Year of Queen Elizabeth, you will find the very same thing asserted by the Act made, 8 Eliz. Cap. 1. Intituled, *An Act declaring the making and Consecrating of the Archbishops and Bishops of this Realm, to be good, Lawful and Perfect*. In which Act, Sect. 2. it is Declared thus, VIZ.

8 Eliz. Cap. 1

First, It is very well known to all degrees of this Realm, that the late King of most famous Memory, King Henry the Eighth, as well by all the Clergy then of this Realm in their several Convocations; as also by the Lords Spiritual and Temporal, and Commons assembled in divers of his Parliaments, was justly and rightly recognized and knowledged to have the Supreme Power, Jurisdiction, Order, Rule and Authority over all the Estate Ecclesiastical of the same, and the same Power, Jurisdiction and Authority did use accordingly: And that also the said late King in the 25th Year of his Reign, did by Authority of Parliament amongst other things, set forth a certain Order of the manner and form how Archbishops and Bishops within this Realm, and other his Dominions, should be Elected and made, as by the same more plainly appeareth: And that also the late King of worthy Memory, King Edward the Sixth, did Lawfully succeed the said late King Henry his Father in the Imperial Crown of this Realm, and did justly possess and enjoy all the same Power, Jurisdiction and Authority before mentioned, as a thing to him descended with the same Imperial Crown; and so used the same during his Life. And also that the said late King Edward the Sixth in his time, by Authority of Parliament, caused a Godly and Clergious Book, Intituled, *The Book of Common Prayer, and Administration of Sacraments, and other Rites and Ceremonies in the Church of England*; to be made and set forth, not only for one Uniform Order of Service, Common Prayer, and the Administration of Sacraments; to be used within this Realm, and other his Dominions; but also did add and put

Sect. 2.



put to the same Book a very good and Godly Order of the manner and form how Arch-Bishops, Bishops, Priests, Deacons and Ministers, should from time to time be Consecrated, made and ordered within this Realm and other his Dominions, as by the same more plainly will and may appear. And although in the time of the late Queen Mary, as well the said Act and Statute made in the 1<sup>st</sup> Year of the Reign of the said late King Henry the Eighth, as also the several Acts and Statutes made in the Second, Third, Fourth, Fifth, and Sixth Years of the Reign of the said late King Edward, for the Authorizing and Allying of the said Book of Common Prayer, and other the premises, amongst others other Acts and Statutes touching the said Supream Authority, were Repealed: yet nevertheless, at the Parliament holden at Westminster, in the first Year of the Reign of our Sovereign Lady the Queens Majesty that now is by one other Act and Statute there made, all such Jurisdictions, Priviledges, Superiorities and Prebeminences Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power and Authority hath heretofore been, or may Lawfully be used over the Ecclesiastical State of this Realm, and the Order, Reformation, and Correction of the same, is fully and absolutely by the Authority of the same Parliament, united and annexed to the Imperial Crown of this Realm: And by the same Act and Statute, there is also given to the Queens Highness, her Heirs and Successors, Kings and Queens of this Realm, full power and authority by Letters Patents under the great Seal of England, from time to time to assign, name and authorize such Person or Persons as she or they shall think meet and convenient to exercise, use, occupy and execute under her Highness all manner of Jurisdictions, Priviledges, Prebeminences and Authorities in any wise touching or concerning any Spiritual or Ecclesiastical Power or Jurisdiction within this Realm, or any other her Highness Dominions and Countries.

Here again you see that the very Commissions are again Confirmed, and all Ecclesiastical Power absolutely in the Queen to make and Appoint by her Commission whom She please to exercise Spiritual Jurisdiction, and no Man ever pretended this Statute to be touched.

This being the Case to the end of Queen Elizabeths Reign, we must see what was done in King James time, and so to this Day.

In King James time the Bishops and Ecclesiastical Courts were holden as in Queen Eliz. time, as is most apparent; for meeting with an Objection, that the Bishops hold Courts in their own names time out of mind, notwithstanding the Statutes

tutes



rules, and that the long custome would excuse them therein; especially when the King did permit it. I took an occasion to inform my self from the Journals and Records, and do find that the Ecclesiastical Power was held and used in the time of King James, under him by Vertue of Commission, as before, and to put it out of all doubt, I shall demonstrate it thus : *Vide Journ. ho. Lords. 7 Jac. & 10. 1610.*  
 7 Jacobi, A Dispute arose about the Spiritual Courts of their Extortion and going beyond their Commissions; the Commons in Parliament complained to the King against the Ecclesiastical Courts, and pray that no more such power may be given them by Commissions. And a Question arose in the 10th of Jacobi, whether they had any power at all; in full Parliament it was Resolved, and the King gave his Answer, and the Judgement of the House of Peers, *That they had no Power but by the Kings Commission, which he would take care for the time to come that it should not be any Burthen to the People.* Which Answer and Judgement in Parliament you have here in hec Verba set down, *VIZ.*

Die Luna, Viz. 23 die July, 1610. Post Meridiem.

*His Majesties Answer delivered to the whole Assembly of both Houses, the 23d of July, 1610. unto certain Grievances formerly delivered to His Majesty by the Knights, Citizens and Burgeses of the Commons House of Parliament, touching the inconvenient and dangerous extent of the Statute of 1 Eliz. Chap. 1.*  
 Our Approved care for the well Ordering of Ecclesiastical Courts and Causes, ought to banish from the conceits of our loving Subjects all needless and imaginary fears: Nevertheless we are pleased to assure them by Our Royal Promise, That our Ecclesiastical Commissions shall not be Directed to singular Persons, but to such a number of Commissioners, and them so elected as the weight of such Causes doth require: And that no Definitive Sentence be given or pronounced by such our Commissioners, under the number of Seven of them, sitting in Court, or Five at the least, and that in only case of Necessity. And further, That we shall not take Advantage by any power given us by that Statute, to grant forth any forms of Commission exceeding further then to Imprisonment and Reasonable Fine. And likewise, That We shall restrain such our General Commissions to the number of Two, the one for this Province of *Canterbury*, the other for that of *Tork*; Besides we are Resolved to Establish such an Order touching the use and practice of Our said Commission, as that none of  
 our

our Loving Subjects shall be drawn from remote places, either to *London* or *York*, except it shall be for such exorbitant offences as are fit to be made exemplary ; And for the enumeration of Ecclesiastical Causes in particular, as it is a matter full of Difficulty, so it is needful (as we suppose,) considering that they are already limited and confined as no Antient Canon or Spiritual Laws are in force, that are either contrary to the Laws, Statutes, or Customs of this Realm, or tend to the Damage or Hurt of our Prerogative Royal.

For the Grievances apprehended in the Commission, First a Sovereign King being *Mixta Persona*, and having Authority as well in Causes Ecclesiastical as Temporal, it was with great Wisdom ordained (Matters of the Church being many ways impugned, and the Censures of it grown into contempt) That there should be a Commission consisting as well of Temporal as Ecclesiastical Persons, who might have power for one Offence at one time and by one sentence to inflict as there should be cause, both Spiritual and Temporal punishment; but as to the Inquiry by Juries, it hath not for many Years been practised. And we are content, that hereafter it be omitted in our Commission ; And concerning Appeals, the use hath always been to exclude them in Commissions of this nature ; And yet if any of our Subjects shall be justly grieved with any Sentence given by our Commissioners, we shall be content, as we find just cause, to grant unto them a Commission of Review : Also for the Execution of divers Statutes, aimed at in your Grievances, although it hath been from time to time committed in some sort unto our Commissioners. And that every such Commission hath been still penned by the Attorney-General, with the Advice of the chief Temporal Judges ; yet we are well pleased, and will give commandment accordingly, that our Temporal and Ecclesiastical Judges, assisted with our Learned Council, shall confer together concerning the Exceptions by you taken, to the end that hereafter our said Commissioners may have no further power to intermeddle with the Execution of any part of the said Statutes, then it shall be found fit for our Service, necessary for the suppressing of Popery and Schism, and no ways repugnant to the Laws and Pollices of this our Realm : But for making any Innovations in the forms and proceedings heretofore used by our said Commissioners, we know no cause to depart therein from the Examples of our Progenitors, nor from that which the Laws of this our Kingdom hath Approved. And touching Fees, since it is a Court by Statute erected  
and

and no Fees in the Statute expressed, it was very fit, That the Commissioners should have Authority to limit and Appoint to every Officer his Reasonable Fees: And we will commend the further care thereof to some Principal person of our Commission, to take a view of them, and as to reform what they find amiss, so to Establish such as shall be Moderate and Reasonable, touching the Grievances found in the Execution of the Commission. We know that there is no Commission nor Court either of Ecclesiastical or Temporal Jurisdiction, but may be subject more or less to Abuse in the execution of their Authority. Nevertheless, it is Our part to have our Ear open to receive Complaints of that kind especially from our Parliament, when we shall find them to be just. And therefore our purpose is to see such Reformation made of all Abuses made in the execution of the said Commission, as may best procure the ease of Our Subject, from charge of Vexation; And such punishment to be inflicted upon any Pursuivants or other inferior Ministers which shall be Offenders, as may repress such Misdemeanors in time to come.

Sure if this Record be considered, there is ground enough to justify that the Spiritual Courts cannot be holden but by the Kings Commission; Therefore I need say no more, the Case being plain the Law was so to this Year of 1610. which I set down the rather because a use will be made of it by and by.

But in King *Charles* the First's time, the Bishops cast about them how to get rid of these Shackles; And therefore in Bishop *Land's* time, the point about Holding Courts in their own Names, without the Kings Commission, was by him stated, and in the Star-Chamber where he ruled the Rost got the Judges there, tho' it was but an extra Judicial Judgment to declare in their favour, which was easie enough to be done when both the Judges and His Grace were resolved upon the point, for those very Judges most of them were the same that gave their Judgment about the Shipp-Money; And we know what became of that Judgment and them: And for your Prelate he met with his due at *Tower-Hill* after, but before his Lordship had finished his Ministry, so prevalent he was, that I am told he got a Proclamation to publish the Extra Judicial Opinion, which made a great noise in the World, for Noyse and Decency was all along the Cheat that was put upon the People in those Days by that Prelate and his Gang.



ad But I think no Man will say that that Extra Judicial Opini-  
on is either equal with the Statute Law, or with the Judge-  
ment of Parliament, therefore I shall say no more, but pro-  
ceed.

After that Extra Judicial Opinion of the Judges, and by  
means of the long Intervals of Parliament, the Spiritual Courts  
as well as the Star Chamber, were Lords Paramount, and so  
greatly that they became a most Heavy Burden to the peo-  
ple of all Sorts; therefore before the Troubles began, the  
Parliament in 16 *Car. primi*, made an Act to take away the  
Power that was given by the Statute of 1 *Eliz.* for the Grant-  
ing any Commissions at all; by which means they well knew  
that no Courts could be held at all; And therefore an Act  
passed to Repeal that Branch of the Statute of 1 *Eliz.* which  
was only one Clause about the granting Commissions, as by  
the Act of *Car. primi*, appears, and all Spiritual Courts were  
utterly Abolished by that Act, The Title of the Act runs  
thus, *Act 2. c. 1. de abol. curiarum spiritualium*.

*A Repeal of the Branch of a Statute, primo Elizabethæ, con-  
cerning Commissions for Causes Ecclesiastical.*

16 *Car. c. 11.* Whereas in the Parliament holden in the first Year of  
the Reign of the late Queen Elizabeth, late Queen of Eng-  
land, there was an Act made and Established, Intituled, An  
Act Restoring to the Crown the Ancient Jurisdiction over the State  
Ecclesiastical and Spiritual, and Abolishing all Foreign Power Re-  
pugnant to the same. In which Act amongst other things there  
is contained one Clause, Branch, Article or Sentence, where-  
by it was Enacted to this effect, Namely, That the said late  
Queens Highness, her Heirs and Successors, Kings or  
Queens of this Realm, should have full Power and Autho-  
rity by vertue of that Act, by Letters Patents under the  
Great Seal of England, to Assign, Name and Authorize, when  
and as often as her Highness, her Heirs or Successors,  
should think meet and Convenient: and for such, and so  
long time as should please her Highness, her Heirs or Suc-  
cessors, such Person or Persons being Natural Born Sub-  
jects to her Highness, her Heirs or Successors, as her Maje-  
sty, her Heirs or Successors should think meet to exercise, use,  
occupy and execute under her Highness, her Heirs and Suc-  
cessors, all manner of Jurisdictions, Priviledges, Prebemi-  
nencies, in any wise touching or concerning any Spiritual  
or Ecclesiastical Jurisdiction within these her Realms of Eng-  
land,



land of Ireland, or any other her Highness Dominions and Countreies, and to visit, reform, redress, order, correct and amend all such Errors, Heresies, Schismes, Abuses, Offences, Contempts, and Enormities whatsoever, which by any manner Spiritual or Ecclesiastical Power, Authority or Jurisdiction, can or may Lawfully be Reformed, Overruled, Redressed, Corrected, Restrained, or Amended to the Pleasure of Almighty God, the Increase of Vertue, and the Conservation of the Peace and Unity of this Realm. And that such Person or Persons so to be Named, Assigned, Authorized and appointed by her Highness, her Heirs or Successors, after the said Letters Patents to him or them made and delivered as aforesaid, should have full Power and Authority by Vertue of that Act, and of the said Letters Patents under her Highness, her Heirs or Successors, to exercise, use and Execute all the Premises, according to the Tenor and Effect of the said Letters Patents, any matter or cause to the contrary in any wise notwithstanding.

And whereas by culler of some Clauses in the aforesaid Branch of the said Act, whereby Commissioners are Authorized to Execute their Commission, according to the Tenor and effect of the Kings Letters Patents grounded thereupon, the said Commissioners have to the great and insufferable Wrong and Oppression of the Kings Subjects used to fine and Impison them, and to exercise other Authority not belonging to Ecclesiastical Jurisdiction reserved by that Act, and divers other great Mischiefs and Inconveniencies have also ensued to the Kings Subjects, by reason of the said Branch and Commissions issued thereupon, and the Executions thereof: Therefore for the Redressing and Preventing of the aforesaid Abuses, Mischiefs, and Inconveniencies in time to come.

Be it Enacted by the Kings Most Excellent Majesty, and the Lords and Commons in this present Parliament Assembled, and by Authority of the same. That the aforesaid Branch, Clause, Article or Sentence contained in the said Act, and every word, matter and thing Contained in that Branch, Clause, Article or Sentence, shall from henceforth be Repealed, Annulled, Revoked, Annihilated and utterly made void for Ever: any thing in the said Act to the contrary in any wise notwithstanding.

And be it also Enacted by the Authority aforesaid, That no Arch-Bishop, Bishop or Vicar-General, nor any Chancellor, Official, or Commissary of any Arch-Bishop, Bishop, or Vicar General nor any Ordinary whatsoever, nor any other

other Spiritual or Ecclesiastical Judge, Officer, or Minister of Justice, nor any other Person or Persons whatsoever, exercising Spiritual or Ecclesiastical Power, Authority, or Jurisdiction, by any Grant, Licence, or Commission of the Kings Majesty, his Heirs and Successors, or by any Power or Authority derived from the King, his Heirs or Successors, or otherwise, shall from and after the first Day of August, which shall be in the Year of our Lord God One Thousand Six Hundred Forty and One, award, impose, or inflict any pain, penalty, fine, amercement, imprisonment, or other Corporal Punishment upon any of the Kings Subjects, for any Contempt, Misdemeanour, Crime, Offence, matter or thing whatsoever belonging to Spiritual or Ecclesiastical Cognizance or Jurisdiction, or shall Ex Officio, or at the Instance or Promotion of any Person whatsoever Arge, enforce, tender, give or Minister unto any Church-warden, Steward, or other Person whatsoever, any corporal Oath whereby he or she shall or may be Charged or Obligated to make any presentment of any Crime or Offence, or to confess or accuse himself or her self of any Crime, Offence, Delinquency or Misdemeanour, or any neglect, matter or thing whereby or by reason whereof he or she, shall or may be liable, or exposed to any censure, pain, penalty, or Punishment whatsoever: upon pain and penalty that every person, who shall offend contrary to this Statute, shall forfeit and pay treble Damages to every Person thereby grieved, and the Summ of One Hundred pounds, to him or them who shall first Demand and Sue for the same: Which said Treble Damages and Summ of One Hundred Pounds, shall and may be Demanded and Recovered by Action of Debt, Bill, or Plaint in any Court of Record, wherein no Priviledge, Essoin, Protection, or Tager of Law shall be admitted or allowed to the Defendant.

And be it further Enacted, That every Person who shall be once Convicted of any Act, or Offence Prohibited by this Statute, shall for such Act or Offence be from and after such Conviction, utterly disabled to be or continue in any Office or Employment in any Courts of Justice whatsoever, or to exercise or execute any Power, Authority or Jurisdiction, by force of any Commission or Letters Patents of the King his Heirs or Successors.

And be it further Enacted, That from and after the first Day of August, no New Court shall be Created, Ordained, or Appointed within this Realm of England, or Dominion of

of Wales which shall or may have the like Power, Jurisdiction, or Authority: as the said High Commission Court now hath or pretendeth to have, but that all and every such Letters, Patents, Commissions and grants made or to be made by his Majesty his Heirs or Successors. And all Power and Authority granted or pretended, or mentioned to be granted thereby and all Acts, Sentences and Decrees to be made by Certe or Culler thereof, shall be utterly void and of no effect.

After the making of this Act all Jurisdiction of the Spiritual Courts, was wholly dain'd as appears plainly by the Statute. Thus it stood still, 13 *Car. 2d.* Now in this Act of *Car Primi*, it must be observed that it meddles no farther with the Act of *Eliz.* then that one branch about Commissions, it meddles not with the Ecclesiastical power being in the Crown nor with the Statute, 8 *Eliz.* Nor any thing of *Edward 6.* or *Henry 8.* which must be observed.

Thus then their power was wholly discontinued till the thirteenth of *Charles 2d.* And then coming into their Bishopricks and great Estates, they thought it hard that they must have their Spiritual Swords tied; therefore all hands to work to get loose, and so an Act is passed the 13 *Charles 2d.* For Repeal of part of the Act *Car Primi.* And now they thought all was sure, but as it fell out this will do them no good at all neither, for the Act which was intended to Repeal this Act of the 16 of *Charles* the first hath misrecited it, and called it an Act made the 17 of *Charles* the first, not only in the Title but all along in the body of the Act, which is plain upon the Roll, though not in the Statute Books, viz.

An Act for Explanation of a Clause, contained in an Act of Parliament, made in the seventeenth year of the late King *Charles*, Intituled an Act of Repeal of a Branch of a Statute *Primo Elizabethæ*, concerning Commissions for Causes Ecclesiastical, viz.

Whereas in an Act of Parliament made in the seventeenth year of the late King *Charles*, Intituled an Act for Repeal of a branch of *Primo Elizabethæ* concerning Commissioners for Causes Ecclesiastical it is (amongst other things) enacted: That no Archbishop, Bishop, or Vicar General nor any Ordinary whatsoever, nor any other Spiritual or Ecclesiastical Judge, Officer or Minister of Justice, nor  
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any other person or persons whatsoever exercising Spiritual or Ecclesiastical Power, Authority or Jurisdiction by any Grant Licence or Commission of the Kings Majesty, his Heirs or Successors, or by any Power or Authority derived from the King his Heirs or Successors, or otherwise shall (from and after the first day of August, which then should be in the year of our Lord God one thousand six hundred forty one) Award, Impose, or Inflict, any Pain, Penalty, Fine, Amercement, Imprisonment or other Corporal punishment upon any of the Kings Subjects, for any contempt, misdemeaner, crime, offence, matter or thing whatsoever belonging to Spiritual or Ecclesiastical Cognizance or Jurisdiction without some doubt hath been made, that all Ordinary power of coercion and proceedings in causes Ecclesiastical were taken away; whereby the Ordinary course of Justice in causes Ecclesiastical hath been obstructed.

Be it therefore Declared and Enacted by the Kings Most Excellent Majesty, by and with the advice and consent of the Lords and Commons in this present Parliament assembled, and by the Authority thereof that neither the said Act, nor any thing therein contained doth or shall take away any ordinary Power or Authority from any of the said Archbishops, Bishops or any other person or persons named as aforesaid, but that they and every of them exercising Ecclesiastical Jurisdiction, may proceed, determine, sentence, execute, and exercise all manner of Ecclesiastical Jurisdiction, and all censures and coercions appertaining belonging to the same before the making of the Act before recited, in all causes and matters belonging to Ecclesiastical Jurisdiction, according to the Kings Majesties Ecclesiastical Laws used and practised within this Realm, in as ample manner and form as they did and might lawfully have done before the making of the said Act.

And be it further Enacted by the Authority aforesaid that the aforesaid recited Act of Decimo Septimo Caroli, and all the matters and clauses therein contained (excepting what concerns the High Commission Court, or the new Erection) shall be and is hereby Repealed, to all intent and purposes whatsoever; any thing clause or sentence in the said Act contained to the contrary notwithstanding.

Provided always, and it is hereby Enacted, That neither this Act nor any thing herein contained, shall extend



tend or be construed to revive or give force to the said Branch of the said Statute made in the said Year of the Reign of the said late Queen Elizabeth, mentioned in the said Act of Parliament, made in the said Seventeenth Year of the Reign of the said King Charles, but that the said Branch of the said Statute made in the said First Year of the Reign of the said Queen Elizabeth, shall stand and be Repealed in such sort as if this Act had never been made.

Provided also, and it is hereby further Enacted, That it shall not be Lawful for any Arch-Bishop, Bishop, Archbishop, Chancellor, Commissary, or any other Spiritual or Ecclesiastical Judge, Officer or Minister, or any other person, having or exercising Spiritual or Ecclesiastical Jurisdiction, to Tender or Administer to any person whatsoever, the Oath, usually called the Oath Ex Officio, or any other Oath, whereby such person to whom the same is tendered or Administered, may be charged or compelled to confess, or accuse, or to purge him or her self of any criminal matter or thing, whereby he or she may be liable to Censure or Punishment: Any thing in this Statute, or any other Law, Custome or Usage heretofore to the Contrary hereof in any wise notwithstanding.

Provided always, That this Act or any thing therein contained, shall not extend or be construed to extend to give unto any Arch-Bishop, Bishop, or any other Spiritual or Ecclesiastical Judge, Officer, or other person or persons aforesaid, any Power or Authority to Exercise, Execute, Indict, or Determine any Ecclesiastical Jurisdiction, Censure, or Coercion, which they might not by Law have done before the year of our Lord 1639, nor to abridge or diminish the Kings Majesties Supremacy in Ecclesiastical matters and affairs, nor to conform the Commons made in the year 1640, nor any of them, nor any other Ecclesiastical Laws or Canons not formerly confirmed, allowed or enacted by Parliament, or by the Established Laws of the land as they stood in the year of our Lord, 1639.

So that then it follows that except they can find such an Act as this Repeals, which must be one of the 17 of Charles the first, this will not help them for they will not find that this in Law can repeal the Act made the 16 of Charles the first. And what follows if they have acted all this while and had no legal power, let the world Judge what a fine thread

threed they have spun for themselves, if either the King shall call them to account or any private man that hath been Excommunicated, but it will be objected that this may be remedied it being but a mistake to which I answer it may be mended, but it must be in Parliament.

But then it is objected, That this Act of the 13<sup>th</sup> of this King intends them a power to hold Courts.

The Answer is plain, very true it doth so, but it must be according to the Kings Majesties Ecclesiastical Laws still, and it must be from and under him, as by Law, and sure the Statutes before is the Law they must walk by, until the same are truly and exactly Repealed.

But for a further Answer, If they observe this Statute well, and allow it to be a mistake, as I affirm it is, they are not at all the better for this of *Car. 2d.* as to their Ecclesiastical power they now Act by, if there were no mistake at all for this of *Car. 2d.* does not help them in the least, for in the last Paragraph of this Statute of the 13<sup>th</sup> of this King, it is expressly said, *They shall have no more power than they had in the Year 1639.*

Then see what they had in 1639, it is most plain all the rest of the Statutes were then in force against them both of *Henry the 8<sup>th</sup>.* and *Edw. 6<sup>th</sup>.* *Q. Eliz.* and King *James* Laws.

For this very Sentence and Judgement in Parliament before recited, was but in 1650. And I do aver they had no other power then but what those Laws gave them; thus I have done with matter of Fact, as it lies, I leave all Men to judge, and govern themselves as they shall see occasion, and would be glad my Error might be corrected by them, if in any thing I have misquoted or misrepresented the Case, hoping that a more judicious person will undertake to correct it in what way or Method he likes best.

There are Two or Three several Objections which I have met with in this Affair, the First is this, That the King permits it, and if any wrong be done by the Spiritual Courts, it is to him, and what hath any private person to do to concern himself therein.

In that the King may pass it by, 'tis true, but wrong may be done by these Courts to the Subject as well as to the King; and there may be Damage to a single Person by these Courts by being Excommunicated, which cannot be to the King, and whoever suffers under that Burden hath cause enough to complain and seek their Remedy, tho' the King think fit to forgive the wrong done to himself.

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The other Objection, is, That the Course of the Ecclesiastical Courts hath been such time out of mind, and no hurt comes to the Subject by their Courts, whether it be done by Commission or not.

To which I Answer, That I never yet heard of any Good ever did come from those Courts, but many have been ruined and undone by them; And in the next place for their Custom time out of mind, there is no such thing, if Custom should prevail against Law, which it cannot be, for the longest time they can bring for this Custom is but 1610 at the furthest time; and there are some persons yet living, can remember that time. But I believe it will be hard for them, to prove that they exercised Ecclesiastical Power by their own Authority in any time in the Reign of King James; However if they do they cannot make it a Law, for an evil Custom against Law never yet made a Law, and for them to say Custom will carry it, the Highway-Man may as well plead the same for Robbery, and say, *Oh Sir, I have been accustomed to Rob, tho' there be a Law against it.*

There is another Objection which carries as little weight as the rest, and that is the Opinion of the Judges in the Star-Chamber, which ought to have the Answer that before is given, that it was an Extra-Judicial Opinion, and given at such a time, and by the same Judges that over-ruled the Plea of the Lord Hallis and Elliot, which was many Years after reversed in Parliament.

Therefore to Sum up all, the case lies thus, before the 20 of H. the 8. The Spiritual Jurisdiction and all the proceedings in England by the Ecclesiastical Courts, was by from and under the power and authority of the See of Rome and by there Cannon Law afterwards to the end of his Reign all that power was invested wholly in the King, and no authority belonged to them in any matters whatever, but what must be derived by from and under him.

King Edward the 6. of Famous memory did by his honest and wise Council, not only approve of what was done in the Church affairs, in H. the 8<sup>th</sup>. time, but goes on further and takes away the very form and mould of the Spiritual Courts, by making a Law that those Courts should not so much as be held in their one name, but in the name of the King and all there Citations and Proses whatever was to be in the Kings name as in Judicial proceeding at Law, and the Bishops name of the *Dioyses* to be at the bottom, as test to the writ and not as Lord Paramount, the Kings

authority: and by this Kings Law they were not to use any Seal to the Court, but with the Kings Arms in Graven, so it rested in his time.

Queen *Mary* she came in *Popishly* affected, and by the help of Cardinal *Poole* Legate from *Rome*, prevails with her for the good of her Soul and Honour to the unholy Church of *Rome*, to pass an Act, called an Act of repeal to take away all those Laws that abridged the Power and Supremacy of the See of *Rome* since the 20 year of *H.* the 8. And as some will have it this Law of *Edward* the 6. must be meant to be one of those, but what reason can be in Law given is not yet known for it is not particularly Repealed as other Laws are in that Statute of Repeal and; then in the next place being not so particularly, it is believed it could not be Repealed by that Act of Repeal, because that in the very same Act it doth set fourth particularly, all other Acts intended to be repealed, and not that. Then Queen *Elizabeth* in her first year Repealed the Act of Repeal made in Queen *Mary's* days, and restores all again, as was in *Henry* the 8<sup>th</sup>. time, and *Edward* the 6. And declared particularly that all manner of Ecclesiastical power must be from, and under her, and by her Authority and none else, and more particularly to shew all the Church power, was then lost without new power given by that Act, a Clause, is incerted in the said Act that She and her Successors shall give command under the great Seal of *England* to such commissions, as she pleased from time to time to hold Court Ecclesiastical and not otherwise.

To the same effect it is again declared by the Statute made the 8<sup>th</sup> of her Reign. And it is most certain, that by Vertue of the Clause in that Statute *Primo Eliz.* That gives power of granting Commissions to hold Spiritual Courts they did Act; and without it neither Queen or King could grant such Commissions, nor they hold any Courts, without such Commissions.

Thus then it continued all the time of *Q. Eliz.* and by such Commissions they acted and no other Authority was known, nor from her time can they shew other Authority to empower them but on the contrary they will find themselves lessened.

For in King *James's* time they acted by the same Authority, and in full Parliament, in 1610; it was owned of all hands.

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In King *Charles* the first's time the Spiritual Courts became a Burden to the Nation, so great that the people were not able to bear them although they did Act by such Commissions, or at least ought so to do which appears plain by the Statute, 16 *Car. Primi*, which takes away all their whole power, and as a reason or means to take away their power; what do the Parliament do, why it is most clear both by the Title and Body of the Act, they tell you they must repeal that part of the Law of *Q. Eliz.* that gave power to grant Commissions for them to hold Spiritual Courts. Therefore the taking away and Repealing that Branch of the Statute of *Eliz.* that gives power to grant Commissions, it was taken for grant, then that they had no power at all. For no more of that Statute was Repealed is evident, then what related to the Commissions, they did not let them loose to Act as before it was so far from that, that it appears they intended not to let them Act at all, neither under the King in his Name nor any otherways whatever then in this of *Car. 2d.* The Ecclesiastical persons meant to Repeal the Act of *Primo Car.* But mistook the year, so in truth they did nothing at all but they may be liable to be called to account, for all they have acted ever since nor can they Act with safety, till this Law be mended for Acts of Parliament must be punctually repealed, and exactly recited or else in Law it will not do.

But if that had been well Repealed it is far short of giving them any power, for it is only to take away the Clause, that was repealed about given Commissions to hold Courts but gives them no new power at all, it doth not tell them notwithstanding the Laws of *H. 8. Ed. 6.* The rest of the Statutes of *Elizabeth*, and the practice in King *James* time, that they shall hold Courts in their own Names, no, it is so far from that, that the Act saith expressly they shall have no other power by this Act, or was it intended them, then what they had in 1639, now if they can shew that they had any power given them between the year 1610, to the year 1639. Then I say, they are right and may go on, if not, I appeal to all mankind what culler or pretence these men can have to hold Courts Spiritual at all, much less by their own Prerogative or in their own Names; which I take to be as unlawful, and as directly against the Kings Prerogative as any thing can be, For that since all power Spiritual and Temporal is by Law invested in the King;  
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Robert L. ...  
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